

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ANDREW JAMISON

PETITIONER

V.

CIVIL ACTION NO. 3:20-CV-552-KHJ-FKB

RON KING

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is the Report and Recommendation of United States Magistrate Judge F. Keith Ball. [27]. That Report recommends that the Court grant Respondent's Motion to Dismiss [22], deny Petitioner's Motion to Grant Petition for Writ of Habeas Corpus, and dismiss this action without prejudice. Written objections to the Report were due by May 27, 2021. The Report notified the parties that failure to file written objections to the findings and recommendations by that date would bar further appeal in accordance with 28 U.S.C. § 636. [27] at 5. The Parties filed no objections.

When no party has objected to a magistrate judge's report and recommendation, the Court need not review it de novo. 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Jamison challenges the revocation of his post-release supervision, imposition of suspended sentence, and the calculation of his sentence under 28 U.S.C. § 2244. Report [27] at 1. The Magistrate Judge entered his Report and Recommendation, finding Jamison failed to exhaust state remedies as required by 28 U.S.C. § 2254. *Id.* at 3. He further found that Jamison's case does not fit the "limited circumstances" where a federal court may hold a case in abeyance until state remedies are exhausted. *Id.* at 4. Accordingly, the Report recommends granting Respondent's Motion to Dismiss [22], denying Jamison's Motion to Grant Petition [24], and dismissing the case without prejudice. *Id.* at 4-5.

After review of the record, the Court, being fully advised in the premises, finds that the Report and Recommendation is neither clearly erroneous nor contrary to law, and should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Report and Recommendation [27] of United States Magistrate F. Keith Ball, entered in this cause should be, and the same is, adopted as the finding of this Court. Respondent's Motion to Dismiss [22] is GRANTED, and Jamison's Motion to Grant Petition for Writ of Habeas Corpus [24] is DENIED. This action is DISMISSED. Because the case is dismissed for failure to exhaust, this dismissal will be WITHOUT PREJUDICE.

A separate Final Judgment will issue this day.

SO ORDERED, this the 8th day of June, 2021.

s/ Kristi H. Johnson
UNITED STATES DISTRICT JUDGE